

MINUTES OF THE MEETING OF THE OVERVIEW AND SCRUTINY COMMITTEE HELD ON THURSDAY, 2ND MARCH, 2017, 7.00 pm

PRESENT:

Councillors: Charles Wright (Chair), Pippa Connor (Vice-Chair), Makbule Gunes, Kirsten Hearn and Emine Ibrahim

7. FILMING AT MEETINGS

The Chair drew attendees' attention to the notice as shown at Item one of the agenda.

8. APOLOGIES FOR ABSENCE

None.

9. URGENT BUSINESS

It being a special meeting under Part 4, Section B, Paragraph 17 of the Council's Constitution, no other business was considered at the meeting.

10. DECLARATIONS OF INTEREST

None.

11. DEPUTATIONS/PETITIONS/PRESENTATIONS/QUESTIONS

The Committee received a deputation from Nick Martin-Clark from the Haringey Leaseholders Association and Paul Burnham from Defend Haringey Council Housing.

NOTED:

- a. On the day prior to the meeting, the High Court had granted permission for a Judicial Review around a leaseholder specific issue, on the grounds that the consultation process was flawed and that Homes for Haringey (HfH) did not have a valid contract in place with Haringey Council. The issues raised around consultation and accountability could be applied to the proposed Haringey Development Vehicle, particularly because the issue that was the focus of the Judicial Review and the HDV related to the Future of Housing Review. There were also direct legal challenges being made to the Development Vehicle.
- b. The HDV reflected the Government's estate regeneration programme, which was accompanied by minimal public funding and instead encouraged local authorities to secure funding from the private sector instead.

- c. There were significant concerns around the protection of resident's rights of return and, despite verbal promises to the contrary, protections were not reflected in written Council policies.
- d. The process of developing the HDV should be halted to allow further scrutiny.

The Committee received a second deputation from Adrian Weir, of the Unite trade union, accompanied by Danny Spencer of the GMB union. NOTED:

- a. It was surprising that Haringey had chosen Lendlease as its preferred bidder. Lendlease had a history of anti-trade unionism and blacklisting construction workers, which had had a devastating effect on affected workers and their families. They had also been found to have over-charged on public sector contracts in America and had had to pay significant compensation.
- b. In 2013 trade unions launched High Court proceedings against a number of construction employers over blacklisting claims. A number of out of court settlements were received in 2016; however a number of issues remained outstanding.
- c. Lendlease were one of the companies that had proceedings issued against them and it had been confirmed in the construction press that Lendlease had settled their cases. Blacklisters should not be rewarded with public contracts.

In response to the deputation, the Committee sought clarification on whether it was Lendlease that undertook blacklisting or whether the cases referred to related to Bovis, which had since been taken over by Lendlease. Mr Weir responded that these cases referred to did refer to Bovis, but Lendlease must have been aware as part of the due diligence prior to the takeover. In addition, there were more recent accusations of blacklisting against Lendlease relating to the Bluewater shopping centre.

Cllr Alan Strickland, the Cabinet Member for Housing, Regeneration and Planning responded to the deputations. NOTED

- a. The consultation on the Future of Housing Review was a consultation on tenancy management and did not look at wider issues of regeneration, and was not a direct precursor to the Development Vehicle. Tenancy consultation in areas like Northumberland Park, including on estate renewal and regeneration, started before the Future of Housing Review, and before the then Prime Minister's announcements on estate renewal.
- b. At the recent Cabinet Meeting, the Council's Assistant Director of Corporate Governance and Monitoring Officer, made clear that the legal proceedings referred to did not have an impact on the Council's ability to make a decision on the preferred bidder for the HDV.
- c. Haringey condemned the practice of blacklisting and would never condone its use. Lendlease had stated clearly that historical cases of blacklisting related to Bovis before their acquisition, and all claims had since been settled.

- d. The list of 40 blacklisting companies that was released by the Information Commissioner did not contain Lendlease.
- e. Lendlease had a good record of working with the public sector on school and hospital projects, on the BBC, and on Parliament. They had therefore been through rigorous public sector procurement processes successfully.

12. CALL-IN - RECOMMENDATION OF A PREFERRED BIDDER FOR THE HARINGEY DEVELOPMENT VEHICLE

Following an outline of the process and possible outcomes for the call-in meeting, the Chair invited Councillors Hare and McNamara to present why they had requested the Cabinet decision to be called in and the alternative action requested.

Cllr Bob Hare set out his reasons for the Call-in and stated that he did not claim that the decision was outside the budget or policy framework. Cllr Hare did not agree with the assessment made in the officers' report on the call-ins that the proposals bear no resemblance to the recent Heygate development by Lendlease in Southwark and had significant concerns about social homes being replaced with private housing. Cllr Hare also raised concerns about Lendlease, given their historical involvement with blacklisting and overbilling clients in the USA. He was concerned whether council tenants and lease holders would be guaranteed the same rights and would be offered similar homes in the same area. Further concerns were expressed at the lack of adequate consultation, that part of the report was exempt from publication, and that there was a lack of value for money; particularly given that the Council would be entering into an agreement with a private company who were ultimately accountable to their shareholders. His call-in sought to have the decision referred back to Full Council so that the whole Council had an opportunity to debate the issue in public.

In response the Chair clarified that referring the decision back to Full Council would effectively be the Committee absolving itself of its own role in scrutinising the decision, and transferring the responsibility to scrutinise to Full Council. Furthermore, the options available to Full Council would be to either refer the decision back to Cabinet (as the decision maker), or let it proceed – it could not go beyond the decision being called in or take the decision itself.

Cllr Stuart McNamara set out his reasons for the Call-In and stated that he did not claim that the decision was outside the budget or policy framework. His reasons for the Call-in included: a failure to undertake proper Equalities Impact Assessments, potentially meaning the decision may well breach the Council's public sector equalities duty; a lack of engagement with residents and leaseholders, potentially meaning legal challenge to the decision as a result; the potential for a conflict of interest arising from the proposed construction exclusivity clause with the preferred bidder; and the risk that any variance to the terms of the partnership beyond those originally agreed would require a re-opening of the procurement process. Cllr McNamara contended that the

decision should be referred back to Cabinet with a recommendation that the decision be delayed pending further scrutiny work.

In response to a question, the Committee was advised that there was a wealth of information involving similar approaches to development that had failed, including Tunbridge Wells, Croydon and the Heygate Estate, which had resulted only 74 social homes being built. In response to a request for further clarification, the Committee hear that the proposed exclusivity clause related to wider concerns around affordability and value for money. It also seemed to undermine the assertion that the proposal was a 50/50 partnership between the Council and the preferred bidder. The Committee enquired what level of assurance was sought to help to manage the risks involved, and were told the call-in signatories would like to see the decision paused while a full consultation was carried out with tenants and leaseholders. It was suggested that all of the risk seemed to be on the tenants and leaseholders and it was queried what would happen to the commercial leaseholders that were located in the Category 1 site allocation.

Cllr Alan Strickland, the Cabinet Member for Housing, Regeneration and Planning responded to the two Call-ins by setting out:

- a. The model used by Southwark was completely different as they had sold their land to the developer. The HDV proposals would give Haringey a 50/50 stake in any development and far more leverage on the outcome. Ultimately it was Southwark's cross-party planning committee who had given approval to the Heygate scheme and it would be down to Haringey's planning committee to approve any schemes that were developed locally.
- b. There would be ongoing consultation on the HDV proposals, particularly in the run up to the final Cabinet decision to agree the HDV which was likely to take place in July 2017.
- c. In respect of the EQIA, a full and robust process of Equalities Impact Assessments would be undertaken around the final decision to create the HDV. This would be the proper and most appropriate stage to do so. Furthermore, there would be equality impact assessments on each individual redevelopment site prior to transfer into the Vehicle.
- d. The proposed exclusivity clause was still being negotiated with the preferred bidder. The terms of any clause would be part of the decision to Cabinet in July.

In response to questions from the Committee, officers advised that none of the bidders had had to disclose any unlawful practices, as would be required as part of the procurement process. In relation to the nature of the partnership with the preferred bidder and the potential for a conflict of interest, there would be a binding agreement that prohibited Lendlease from voting on construction issues in which their construction subsidiary were involved - in those circumstances the Council would retain all of the voting rights.

Cllr Strickland stressed that packages of land could only be released to the HDV once planning permission had been granted, which was an important safeguard against a developer 'land banking' sites and gave the Council a strong lever in determining the types of schemes used on that land.

Cllr Strickland and officers outlined the nature of the procurement process and the terms on which the Council was able to modify the specifications following the appointment of a preferred bidder. It was noted that the Council was entitled to confirm, optimise and specify the financial commitments and other terms contained in the tender and that all of the areas raised by the committee were subject to further refinement as part of an ongoing procurement process. It was also noted the HDV would have to operate in the context of the Council's policies at the time any development proposals were made.

Clerk's note – the Committee agreed to suspend committee standing orders to allow the meeting to continue beyond 22:00.

After further discussion around the provision of affordable and social housing and the rights of return for existing tenants, Cllr Strickland stated that as well as affordable homes being developed through the HDV, there were also four to five thousand affordable homes planned as part of the Housing Zone and Tottenham Hale area, thousands of homes planned on private land as well as the medium development sites that were coming forward. Cllr Strickland also advised that the Council's Housing Strategy specifically set out its expectations for affordable rents and the Council's position against charging 80% of market rent for larger family homes. Cllr Strickland reiterated that the Council would be seeking to include its commitment to a right of return for residents, as part of the Category 1 allocation in Northumberland Park, in the legal agreements that would be developed in the coming months. Commitments around the development future estates would have to be done as-and-when they came forward, on an individual basis.

Clerk's note – at this point in the meeting, the Committee passed a motion to exclude the press and public to allow them to move to private session and discuss the exempt section of the report. The meeting then reconvened in public session at 23:40.

The Committee did not find that the decision reached fell outside the Budget or Policy Framework. The Committee took the view that it would be most appropriate, for the purposes of allowing detailed further consideration of matters raised in the Call-Ins, for the decision to be referred back to the Cabinet, as the executive decision-maker in this case, rather than to the Full Council.

RESOLVED

That the decision be referred back to Cabinet, with the following recommendations:

- a) That Cabinet make a firm commitment that there be no allocation of any sites to the HDV without a full Equalities Impact Assessment being undertaken for each site.
- b) That Cabinet agree that any allocation of Category 1 sites include specific policies, including around eviction, to guarantee a right of return for residents and leaseholders on the same terms and conditions. This is to be agreed with the tenants and leaseholders affected, and to take into account the housing conditions and requirements of those residents.
- c) That Cabinet ensure that there is no agreement with any HDV partner without effective arrangements to ensure value for money in respect of any construction exclusivity arrangements, on a site by site basis, including undertaking an independent assessment to demonstrate its value for money to the Council.
- d) That Cabinet ensure that there is no loss of target rent properties on Category 1 sites and should also seek to ensure the provision of 50% genuine affordable housing on those sites.
- e) That the Council enter into discussions with relevant trade unions regarding historical allegations of blacklisting involving the preferred bidder and to ensure that relevant mitigations are put in place.
- f) That Cabinet ensure that arrangements be put in place with the construction subsidiary of the HDV partner to provide local employment and training opportunities; particularly in respect of equalities groups including job support and training for disabled people.

13. NEW ITEMS OF URGENT BUSINESS

None.

14. EXCLUSION OF THE PRESS AND PUBLIC

RESOLVED

That the press and public be excluded from the meeting for the rest of discussion as it contained exempt information as defined in Section 100a of the Local Government Act 1972; Paragraphs 3 & 5 – Information relating to the financial or business affairs of any particular person (including the authority holding that information) and information in respect of which a claim to legal professional privilege could be maintained.

15. CALL-IN - RECOMMENDATION OF A PREFERRED BIDDER FOR THE HARINGEY DEVELOPMENT VEHICLE

The Committee discussed information pertaining to the exempt section of the report and the Cabinet Member and officers outlined some of the key issues that had arisen as part of the negotiations with the preferred bidder.

16. WORK PROGRAMME UPDATE

The Committee considered the work programme update.

The following terms of reference were agreed for the HDV stage 2 scrutiny programme.

1. To establish and provide recommendations on the feasibility of the proposed joint venture model of council tenants being re-housed on rent matching that of an equivalent council property and on the same terms, either on the estate or elsewhere in the borough, according to their choice.
2. To establish and provide evidence and recommendations on whether the HDV can deliver a tenancy and evictions policy which protects vulnerable tenants in the same way as council tenancies do.
3. To establish and provide recommendations on whether overcrowded tenants can be offered a replacement property of a size that meets their needs.
4. To further establish and provide recommendations on whether the financial arrangements of the proposed HDV adequately protect the Council's interest.
5. To further establish the risks of the venture and make recommendations on whether these risks can be adequately mitigated.

17. NEW ITEMS OF EXEMPT URGENT BUSINESS

N/A

CHAIR: Councillor Charles Wright

Signed by Chair

Date